

REMARKS

Reconsideration of the application is respectfully requested.

Claims 1-8 and 10-16 are in the application. Claim 9 has been incorporated into claim 1 and, accordingly, claim 9 has been cancelled. Claim 8 has been amended, and new claims 15 and 16 have been added.

In the Official Action, the Examiner rejected claims 1-14 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8 of co-pending Application No. 10/742,037. Applicants request reconsideration of this rejection in view of the amendment to claim 1. If the Examiner maintains the rejection, and this case is in all other respects in condition for allowance, Applicants respectfully request the issuance of an *Ex parte Quayle* action to resolve the double patenting rejection.

The Examiner rejected claims 1-3, 5, 8-11 and 13 under 35 U.S.C. §102(b) as being allegedly anticipated by Gilbert (U.S. Patent No. 5,370,250).

Gilbert is directed to a collapsible container 10 which includes a side wall structure 18. A continuous helical bellow 30 is defined in the side wall 18. (Col. 4, ll. 28-55). With reference to Fig. 2, an open cup 40 is also provided in Gilbert which has an internal helical thread 46. (Col. 5, ll. 32-38). With reference to Fig. 3, the cup of Fig. 2 is threaded onto the bellow 30 of the container 10. In this manner, the container 10 can be selectively elongated or compressed. (Col. 5, l. 56 - Col. 6, l. 1).

Claim 1 is directed to a roller bottle which includes "a bottom"; "a top"; and "a continuous side wall" which includes "at least one pleat extending from a first point proximate said top to a first point proximate said bottom". Further, "at least one smooth land is formed in

said side wall, said land interrupting said pleat.” In contrast to the structure of claim 1, Gilbert requires a continuous, uninterrupted bellow for engaging the inner thread of the open cup structure. If the bellow was to be interrupted, threaded engagement between the cup and the container would not be achievable. There is no disclosure or suggestion in Gilbert of using a land which interrupts the helical bellow. It is respectfully submitted that amended claim 1, along with dependent claims 2, 3, 5, 8, 10, 11 and 13, are patentable over Gilbert.

The Examiner rejected claims 4, 6, 7, 12 and 14 under 35 U.S.C. §103(a) as being allegedly unpatentable over Gilbert. The Examiner acknowledged that the “rejected claims specify dimensions not disclosed in the prior art.” The Examiner asserted that the “specific dimensions claimed are considered to be obvious in view of Gilbert.”

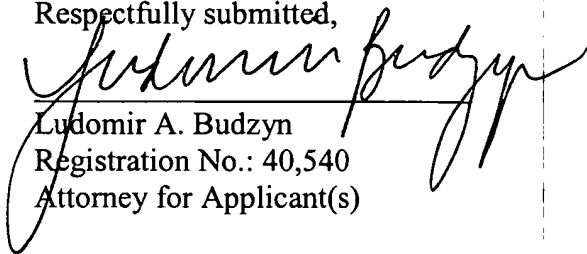
Claims 4, 6, 7, 12 and 14 all depend from claim 1. As dependent claims, it is respectfully submitted that these claims are patentable over Gilbert, for the reasons set forth above with respect to claim 1.

New claims 15 and 16 have been added which Applicants believe define over Gilbert. New claim 15 states that the side wall has “an interior surface and a wholly exposed exterior surface”. With the structure disclosed in Gilbert, the side wall in container 10 is not wholly exposed, but at least partially covered by the open cup structure. New claim 16 depends from claim 15 and states that the side wall is rotatable about the longitudinal axis of the bottle. If the structure of Gilbert was placed on its side, the assembly of the container and the open cup would rotate about an axis different from the longitudinal axis of the bottle (i.e., the assembly would rotate about an offset axis). It is respectfully submitted that claims 15 and 16 are patentable over Gilbert.

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Favorable action is earnestly solicited. If there are any questions or if additional information is required, the Examiner is respectfully requested to contact Applicants' attorney at the number listed below.

Respectfully submitted,



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